

Notice of Allowability

Application No.

09/661,171

Examiner

Robert Madsen

Applicant(s)

BARR ET AL.

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- 1. This communication is responsive to The Appeal Brief filed August 4, 2004.
- 2. The allowed claim(s) is/are 19-30.
- 3. The drawings filed on 9/13/2000 and 10/7/2002 are accepted by the Examiner.
- 4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

- 5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 - 6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
- 7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- 1. Notice of References Cited (PTO-892)
- 2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3. Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
- 4. Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 5. Notice of Informal Patent Application (PTO-152)
- 6. Interview Summary (PTO-413), Paper No./Mail Date _____
- 7. Examiner's Amendment/Comment
- 8. Examiner's Statement of Reasons for Allowance
- 9. Other _____.

DETAILED ACTION

1. Acknowledgement of receipt is made of the Appeal Brief filed August 4.

Allowable Subject Matter

2. Claims 19-30 allowed.
3. The following is an examiner's statement of reasons for allowance:
4. The prior art fails to teach a method of forming and filling in an automated filling operation a container suitable for shipping, display and consumer use wherein the initial forming comprises folding the top inwards, such that the top overlaps the front of the container to provide a closed top and open bottom for the container, the filling a plurality of wrapped elongated food trays is inserted simultaneously through the bottom of the container such that such that an end seal located at the end wall of each tray end walls is readily accessible without restriction from the top of the container, and the elongated food trays have sidewalls with at least one curved recess to facilitate handling and at least one notch with a line of weakness extending from the notch to the bottom wall of the tray, wherein each wrapped elongated food tray has "sufficient strength and stiffness to withstand compression loads experienced during packaging" (Note item 2 on Pages 20 and 21 of the Brief and Page 6, paragraph 2 of the Specification).

Examiner's Amendment

5. Delete current TITLE and insert:
Method of Forming and Filling an End Load Carton with a Food Delivery System

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6. Please replace A5 of 9/13/2000 with the following:

This is a continuation-in-part of prior provisional application Serial No. 60/160,279, filed October 19, 1999, and non-provisional application Serial No. 09/433,039, filed October 25, 1999, now abandoned.

Conclusion


7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

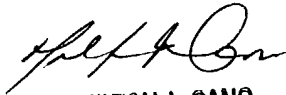
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (571) 272-1402. The examiner can normally be reached on 7:00AM-3:30PM M-F.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert Madsen
Examiner
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MILTON I. CANO
SUPERVISORY PATENT EXAMINER
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